

**IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OHIO,
WESTERN DIVISION**

United States of America,

Case No. 3:19-cr-0294-02

Plaintiff,

Judge James G. Carr

v.

ORDER

Santino Montoya,

Defendant.

Pending is the Defendant's Motion to Reduce Sentence under Amendment 821 to the Sentencing Guidelines. (Doc. 1098) The Government opposes the Motion. (Doc. 1106).

For the reasons that follow, I deny the Defendant's Motion.

Background

On October 6, 2020, Defendant entered a plea of Guilty to Conspiracy and Distribution. (Doc. 492 SEALED). Defendant's Offense Level was calculated to be a 35, and with zero criminal history points, his Criminal History Category a I. (Doc. 572 SEALED, pgID 3883-4). With adjustments to the Defendant's Total Offense Level, the resulting Guideline Range was 108-135 months. (Doc. 945).

On March 18, 2022, I sentenced Defendant to 135 months on each count to run concurrently. (Doc. 940).

Discussion

In Part B, Subpart 1 to Amendment 821 to the Sentencing Guidelines, the Sentencing

Commission added what now appears in § 4A1.1(c), providing a 2-offense-level reduction for certain offenders who present zero criminal history points. However, to be eligible, an offender must meet all eligibility criteria.

While Defendant is undisputedly a zero-point offender, he is disqualified from reduction. The Defendant received a four-level increase to his offense level for being an “organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive.” (Doc. 572, SEALED, pgID 3883). In order for Amendment 821 to apply to zero-point offenders, the conduct at issue cannot fall within one of the ten disqualifying events. See, U.S.S.G. §§ 3B1.1(a); 4C1.1(a).

One disqualifying factor is receiving an adjudgment for having an aggravating role and engaging in a continuing criminal enterprise. U.S.S.G. § 4C1.1(a)(10). Here, Defendant played a leadership role in a drug conspiracy that transpired for nearly a decade and resulted in an 82-count indictment against 31 defendants. (Doc. 572 SEALED, pgID 3863). Such conduct precludes reduction.

Conclusion

While Defendant is undisputedly a zero-point offender, he received four enhancement points as an organizer/leader of an extensive drug conspiracy. (Doc. 572, SEALED, pgID 3883). See, U.S.S.G. §§ 3B1.1(a); 4C1.1.(10). This disqualifies him from eligibility.

For the foregoing reasons, it is hereby

ORDERED THAT: The Defendant’s Motion to Reduce Sentence (Doc. 1098) be, and the same hereby is, **DENIED**.

So ordered.

Date: 11/19/2024

/s/ James G. Carr
Sr. U.S. District Court Judge